IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3278 OF 2004

IN

SUIT NO.3191 OF 2004

M/s.Gloria Development Corporation ... Plaintiff.

vs.

1. Satish Dhondu Pawar & others. .... Defendants.

Mr.Sham Diwan i/b. S.M.Kazi, for Plaintiff.

Mr.P.K.Dhakephalkar with Sanjay Jain, for Defendant nos.1,2 & 4.

CORAM: D.K.DESHMUKH,J.

DATED: 1st December, 2005

P.C.:-

1. This is a notice of motion taken out by the plaintiff. I have heard the learned Counsel appearing for plaintiff and defendant nos.1, 2 and 4. The plaintiff does not appear to have prima facie case in his favour. Firstly, the suit is for decree of specific performance of the Agreement. The agreement is for development of land. The land to which the agreement for development relates admittedly vests in the

State Government. There also does not appear to be any slum development scheme sanctioned by the Authority. Neither the State Government nor the Slum Development authority have been made parties to the suit. So far as this Court is concerned, it is settled Law that a decree of specific performance of the agreement to develop land cannot be granted, and therefore, in my opinion, looking from any point of view it cannot be said that the plaintiff has made out a prima facie case for grant of decree of specific performance in favour of the plaintiff. As the plaintiff does not have prima facie case, there is no question of granting any temporary injunction in favour of the plaintiff. The notice of motion is therefore, disposed of.